IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.12095 of 2000

Dated: 25th July, 2006

Between:

The Sananthnagar Cooperative Housing
Society Ltd., (Regd.No.TA-290), Motinagar,
Hyderabad, rep. by its Secretary K.B.Ramakrishna.
.. Petitioner

and

The Cooperative Tribunal,
Chandravihar, Hyderabad & others.
.. Respondents

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ORDER:

This writ petition is filed being aggrieved by the order passed in C.T.A.No.235 of 1997 dated 13.12.1999 on the file of the first respondent-Tribunal, wherein the award passed by the second respondent in A.R.C.No.10 of 1997 dated 10.6.1997 was confirmed.

It is not in dispute that the third respondent was a member of the petitioner society and he has paid the prescribed fee there against. However, it is the case of the petitioner society that when lots were being drawn on 17.4.1994, a notice was sent to the third respondent requesting to express his willingness or otherwise by way of filing an affidavit. The third respondent neither sent his willingness nor filed affidavit in this regard. However, the telegram purported to have been sent on 16.4.1994 was received after the lots were conducted on 17.4.1994, therefore, no housing plot could be allotted to the third respondent.

It is the contention of the learned counsel for the petitioner that even otherwise, the third respondent has not raised any dispute for two years and eight months in spite of receiving notice issued under Section 22(2) of the A.P. Cooperative Societies Act, 1964 (for short 'the Act'). The third respondent could have made an application within 30 days from the date of receipt of decision of refusal or within 60 days from the date of application to the society, as the case may be. In this case, none of these criteria have been satisfied and raising the dispute after two years and eight months is not permissible under law and the claim is time barred.

The learned counsel for third respondent states that such a plea was taken, but the same was not considered by the primary authority i.e. Arbitrator. In this regard, he has drawn the attention of the Court to para 13 of the order of the primary authority dated 10.6.1997, which reads as under:

> "The society should have allotted plot to the petitioner (third respondent), the action of the society is also clearly disclosing that it has allotted plots to the

members those who have attended on the date of allotment which is against the provisions of bye-laws, rules and natural justice".

I am of the considered opinion that there is no answer as to whether the telegram sent by the third respondent on 16.4.1994 was replied and unless and until any reply is given refusing to allot on any ground, the question of commencement of limitation as contemplated under Section 22(2) does not arise. Therefore, the findings recorded by the Tribunal below do not call for any interference by this Court under Article 226 of the Constitution of India. The writ petition is devoid of merits and liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

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C.V.RAMULU, J

Date: 25.7.2006

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